

Minutes
DAGSBORO TOWN COUNCIL
Virtual
Monday, January 25, 2021

I. CALL MEETING TO ORDER

Mayor Baull stated that this meeting is being conducted remotely consistent with Governor Carney's executive order due to the current State of Emergency in the State of Delaware given the outbreak of COVID-19. The Governor's order suspends the requirement of the open meeting law to have all meetings in a publicly accessible physical location, further all members of public bodies are allowed and encouraged to participate remotely. This order also allows public bodies to meet entirely remotely as long as reasonable public access is afforded so that the public may follow along with the deliberations of the meeting. All the votes as well as discussions will be taken individually so that all the Council members will have the time to speak if they so choose also so we can properly document it. Mayor Baull stated that this meeting is being recorded and Town Administrator Brought is taking notes as well.

Meeting was called to order by Mayor Baull at 6:02 p.m.

In attendance were: Mayor Brian Baull, Councilman Patrick Miller, Councilwoman Theresa Ulrich, Vice-Mayor William Chandler, Town Administrator Cynthia Brought, Engineering Consultant Kyle Gulbranson, and Town Solicitor Greg Morris. Councilman Norwood Truitt was not present. See attached sign in sheet for other members of the audience.

II. PUBLIC COMMENT

Beant Singh, 24768 Shore Line Dr, Millsboro, stated that he has owned a liquor store in the Town of Georgetown since 2016. He stated that Mr. Snead has been a customer to his liquor store and brought to his attention that he was planning to open a liquor store in the Town of Dagsboro. Mr. Snead asked him about his experience since he owns a liquor store within a town. Mr. Singh stated that he offered Mr. Snead his thoughts and suggestions with his experiences. Mr. Singh has found that customers appreciate not having to drive far for their daily needs. Other customers that have moved from surrounding areas have stated that they look for liquor stores for their essential needs and like the fact that they do not have to cross the highway for their essential needs.

Anthony Lorenz, 29198 Shady Creek Lane, Dagsboro, stated that he filled out the survey and he is opposed to changing the Town Code. Part of the reason that they moved to the area was because there were no liquor stores in their immediate area. He does not feel that a liquor store is essential. He stated that he does drink, but the town was set up this way for a reason and to change the Code for one business that may have a negative effect on the residents of the town wouldn't be right. He also has a concern with traffic at this location and the shore traffic, along with normal traffic, is horrendous. He stated that they cannot even get out of their development at times. He felt that as far as availability of

liquor stores, there is one at Savannah Square and others on Rt. 113 that they could pick up their liquor, which they have been doing for years. He does not see the need to change the Town Code for one person.

III. APPROVAL OF MINUTES

- a. December 14, 2020 Town Council Meeting

Vice-Mayor Bill Chandler made a motion to approve the minutes as submitted. Councilwoman Ulrich seconded the motion. All were in favor.

IV. CONSENT AGENDA

- a. Police Department Report
- b. Treasurer's Report
- c. Administrative Report
- d. Building Official Report
- e. Code Enforcement Report
- f. Meeting Reports
- g. Water Department Report
- h. Prince George's Chapel Cemetery Report
- i. Correspondence

Vice-Mayor Chandler asked Town Administrator Brought the status of the court filings with Bodies and S&J. He also stated that he agreed with her judgement in regard to the Maintenance Agreement for the clock in that it is too expensive, particularly with the carve outs of what they will cover. Town Administrator Brought stated that as far as Bodies it has been active. Stacy has met with them and they have some signage to work on. Town Solicitor Morris stated that in regard to Bodies an attorney did enter his appearance and they have filed an answer. Mr. Morris stated that he has reached out to the attorney to see if they can get the matters resolved as they are not things that they should not be able to correct. The attorney is going to review this with his client and get back to Mr. Morris. Once he hears back he will report to Town Administrator Brought. Town Administrator Brought stated that she felt that we need to start from scratch with new letters and pictures in order to condemn the S&J property. Mr. Morris stated that he felt that was correct and he will move forward on that immediately.

Vice-Mayor Chandler made a motion to approve the consent agenda as presented. Councilman Miller seconded the motion. All were in favor.

V. NEW BUSINESS

- a. Town Center District Survey Results (Changing Town Code to Include Retail Liquor Store in Town Center District as an Allowable Use)

Town Administrator Brought stated that the survey was sent out to only Town Center District residents, however according to Vice-Mayor Chandler questions arose from town residents in regard to being in

Residential Zoning and also being affected by this. They questioned why they couldn't have a say as well. Therefore, the survey ended up reaching Town Center and Residential Districts. The survey results are broken down, however, note that we got 26 unknown either due to no name or address on the survey. Mayor Baull stated that for Town Center District residents there were 18 yes (in favor) of changing the Code and 23 no (not in favor) of changing the Code. Residential District residents were 19 yes (in favor) and 48 no (not in favor) of changing the Code. The unknown residents were 10 yes (in favor) and 16 no (not in favor) of changing the Code. That is a total of 47 in favor of changing the Code and 87 not in favor of changing the Code to allow retail liquor stores in the Town Center District. Mayor Baull stated this was not scientific and was just Town Council's way of getting the opinions of the residents of the Town Center District, residents in general, and others interested in expressing their opinion. He stated that all survey results are in Town Hall if anyone would like to review them.

Vice-Mayor Chandler stated that he felt the results speak for themselves with 65% that are against the idea of amending the Town Code to make a change.

b. Recap and Discussion – Meeting with the Town of Millsboro, January 12, 2021 Regarding the Interconnection Between Millsboro and Dagsboro – Vice-Mayor Chandler

Vice-Mayor Chandler stated that we had a meeting on January 12th, 2021 at noon via Zoom with the Town of Millsboro representatives and Dagsboro representatives. He believed Mayor Truitt was on for Millsboro as well as Vice-Mayor Hodges from Millsboro, Town Manager Sheldon Hudson, Millsboro's Engineering Consultant, and Kenny Nibblett from the Millsboro Water Department. Mr. Chandler was on for the Town of Dagsboro as well as Councilman Truitt, Town Administrator Cindi Brought, Engineering Consultant Kyle Gulbranson, Town Solicitor Greg Morris, John Thader and Rob Penman with Artesian. He stated that there may have been others but those are who he can recall.

Mr. Chandler stated that the discussion was a generally good and robust discussion around a variety of topics and themes. One topic being Dagsboro's reason or purpose for having the interconnection with Artesian, which was described and explained. There was also discussion on different engineering options or solutions to solve Millsboro's concern about the intermingling of Artesian water with Millsboro water. There was then discussion about the date of completion for the Millsboro water tower which they are working on to get completed. The estimated date of completion is late July 2021. Also discussed was the timing of the interconnection between Artesian, Dagsboro and Frankford. Mr. Chandler stated that he recalled Mr. Thader stating that the interconnection would be likely ready to connect in May or June 2021. This lead to Millsboro's request that the Town of Dagsboro consider delaying the interconnection with Artesian until they have completed their water tower, which again is expected in late July. Like anything that is being constructed in the pandemic era, there could be slippage in the date and it might slip to August or maybe even September. One of Millsboro's requests, which was one of the action items that came out of the meeting, was that Dagsboro consider Millsboro's request that there be a delay in the interconnection to allow their new water tower to come online. There was discussion on Artesian buying out the contract between Millsboro and Dagsboro, which Artesian declined. There was a similar request made of Dagsboro which was similarly declined for a

couple of reasons, but mainly because there is no legal requirement for that to be done as well as no real need to terminate or end the contract with Millsboro before its natural end in December of 2022. Therefore, that was not a viable option or reason for doing that. There was discussion of Artesian and Millsboro getting together for Millsboro to do an exploration of some of the engineering options with Artesian that were discussed, with respect to the interconnect between Millsboro and Dagsboro, but also engineering specs of the Artesian system that is being built in Dagsboro. CCR reports were discussed and both Artesian and Millsboro are required to do these; CCR is an acronym for Consumer Confidence Report. Artesian stated that if their water ever intermingled with Millsboro's, such as during an emergency (if they had a fire), that required them to draw water from Dagsboro, Artesian's CCR could simply be added to Millsboro's CCR. This is a customary and conventional way of dealing with interconnects involving Artesian and other towns or municipalities. Dagsboro's representatives that attended the meeting were in agreement with Vice-Mayor Chandler's summary of the meeting.

Mayor Baull expressed his thanks to Councilman Truitt for attending the meeting since he was unable to due to health concerns.

VI. OLD BUSINESS

- a. Follow Up Regarding Clay Snead addressing Mayor and Council in regard to the possibility of changing the language in the Town Code to allow retail liquor stores in the Town Center District

Mayor Baull asked each councilmember their thoughts on having a Public Hearing next month to allow Mr. Snead to formally address and have the public provide their comments and then the Council will decide if they support or deny it.

Councilman Miller stated that he is in agreement however his concern is how we let the residents know about the public hearing. Mayor Baull stated that it would be advertised on the Town Facebook page and website as well as in the Coastal Point. Mayor Baull stated that Town Administrator Brought and he had already discussed that since it would be virtual, we should have people call Town Hall and sign up either to speak in favor or against changing the Code and Mayor Baull could call off the list. Councilman Miller stated that 90% of the residents aren't even aware that there is Town Website or Facebook page and that concerns him. Town Administrator Brought stated that it could go on a note on the water bill as well.

Vice-Mayor Chandler stated that he felt scheduling a Public Hearing was a futile thing to do for several reasons. A Public Hearing is designed to find out how the public feels about something that the town is proposing. He stated that we already know how the town feels about the proposal to change the Code to allow retail liquor stores. He stated that it wasn't a close vote in the survey results and it was an overwhelming vote. He doesn't feel that there was fraud or manipulation of the voting process and felt it was a fair survey. He didn't feel that a public hearing is practical for some of the reasons that Mr. Miller mentioned. A lot of the town residents are elderly, a lot don't have cell phones and they use a landline which does not have a "mute" function. He felt many will not participate in a process where

they are being asked to call in, unmute themselves and then re-mute themselves when they are finished speaking. Vice-Mayor Chandler felt that there would not be fair and reasonable public participation over the internet or over the telephone. He stated that it is also premature because there has not been any real reasonable or in depth discussion about how you would amend the Town Code. There are ways that could be discussed on how to amend the Town Center Code that are less draconian than simply stripping the Code of the ordinary meaning of beverages and re-writing it to include retail liquor stores. He felt the town would at least want to sit down with its Solicitor and have a dialogue about ways in which this could be done that wouldn't require completely re-writing the Town Center District Code in a manner that apparently offends the majority of the residents who live here. He also felt that we should wait and either at the next meeting or a special workshop meeting sit down as a Council with our Solicitor and think about ways the Town Center District could be changed if Council thought there was a justification for doing that. Again, referring back to his first point, he felt Public Hearings are to gauge the public's sentiment. However, if someone doesn't believe that the surveys were an accurate reflection of the public's sentiment then he has a different suggestion. Instead of having a Public Hearing, he suggested having an election. Convene an election at the Dagsboro Fire Hall and give notice to every resident of the Town of Dagsboro, by mail that we are holding a special election on a given date and time and they can come to the fire hall and vote their preferences. He stated that this would give an accurate indication of actual public sentiment, if in fact, you don't believe in the survey results. He felt this process would be better than a Public Hearing, which won't give you an accurate portrayal of public sentiment. If we are not willing to follow the survey results, then he suggested respectfully, that we are no longer a representative democracy and we should go to a direct democracy.

Councilwoman Ulrich stated that she agreed with both Councilman Miller and Vice-Mayor Chandler, but felt that further discussion is needed in regard to this with Town Solicitor Morris. She felt a workshop would be good to see what the options are as far as amending anything.

Mayor Baull stated that Mr. Chandler does bring up very valid points and asked Town Solicitor Morris if he would recommend a workshop. Town Solicitor Morris stated that what Vice-Mayor Chandler stated seems more logical and all the issues can be discussed. At that point if it's decided that you want to have a Public Hearing or a Public Vote, it may be more fruitful since there were notices sent out and responses received. He felt it may be best to have a meeting before moving to the next step, if you even decide that you want to go to that next step. Mayor Baull asked for Town Solicitor Morris and Town Administrator Brought to get a date together for a Public workshop.

b. Artesian – John Thaeder and Rob Penman – Second Interconnection Agreement

Town Solicitor Morris stated that it may be best, since Artesian has been part of all the conversations with the Town of Millsboro, that they provide information to the Council as to their response to Millsboro's concerns that they had raised in writing and again at the meeting. He stated that he felt that Artesian provided reasonable responses or answers to the questions that were raised by Millsboro, but since most of the Council was not present maybe they can address those answers with Council now.

John Thaeber stated it was a cordial meeting with Millsboro. Millsboro was concerned how the interconnection would operate between Millsboro and Dagsboro. There are three ways you could do it. You could do a manual interconnection, which would require somebody to physically go open and close valves to allow water to move between the two towns. You could put in an interconnection that would allow water to flow one way in an emergency but not in the other direction. You could do a two way interconnection, which would allow water to flow in either direction depending on the pressure levels and the needs of both systems. The last one is a complicated system and it is probably a \$60,000 or \$70,000 dollar investment to put that kind of infrastructure in to allow that. Mr. Thaeber stated that at the end of the day Millsboro just does not want to be interconnected with Dagsboro if there is another source of supply on the system that would run automatically. He felt that they made it clear that they would want only a manual system which would require a phone call from either town to the other to allow the interconnection to be opened to let water flow. Mr. Thaeber stated that is the simplest one to do, he doesn't feel any capital improvements would have to be done. But it is also the slowest in an emergency because you would have to physically contact someone to make it happen.

Mr. Thaeber stated that he doesn't understand Millsboro's rationale for worrying about whether Artesian's ground water mixes with their ground water and they didn't give a reason other than that is not what they wanted. They were very adamant about the fact that until they got their tank up and running, they would like the interconnection to function the way it does presently with Dagsboro helping them with their fire protection needs. They were clear that once they built their tank, the concern was less for water flowing from Millsboro to Dagsboro and concern would be in a case of emergency and water moving naturally from Artesian that would reach their system. Mr. Thaeber stated that Artesian did offer them a tour of their facility and he expects that Millsboro would contact Artesian to schedule this. If the Town of Dagsboro would like Artesian to reach out to the Town of Millsboro they will schedule the meeting.

Mayor Baull asked Mr. Thaeber, in regard to Millsboro requesting a delay on the interconnection until July or possibly longer, what if any affect that would have on what Artesian has planned for providing the Town of Dagsboro with water. Mr. Thaeber stated that as long as Artesian is able to put the infrastructure in place and don't activate it until July, August, or September, that is a decision the Town of Dagsboro has to make from a monetary standpoint and Artesian would not object to that. What Artesian would have a problem with is if for some reason there is disruption regarding Artesian being able to tie our systems into the south and run the water out of Dagsboro through their own mains. If it is decided that people don't want the water to flow until the summer that is not a major concern of Artesian.

Mr. Thaeber stated that what they are requesting tonight is for the interconnection to be approved with the date of actually activating and starting to flow into town and the second interconnection to flow into Frankford. We would defer to the time that the town executed the Agreement and at that point turn it on whether it would be in July, August, or September. The actual turn on date does not impact Artesian significantly.

Mayor Baull asked Town Solicitor Morris if he was satisfied with the Second Interconnection Agreement. Mr. Morris stated that he did not see anything, even after all the meetings. He felt that the delay in signing was because of the concerns raised by Millsboro and not raised by any representative of the Council. Mr. Morris felt as long as the terms read that if there is going to be a delay into July, August, or September that this should be added into the Agreement. Mayor Baull asked Mr. Thaeder if he agreed with that. Mr. Thaeder stated that he thought the actual interconnection startup date doesn't need to be entered into the Agreement itself and thinks there is actually an execution date in the Agreement stating that it starts when a mutually accepted date is agreed upon. Mr. Thaeder stated that it doesn't say in the Interconnection Agreement that it starts on July 22nd and it would be a mutual decision that would have to be made with the Town of Dagsboro as to what the commencement date would be. Mr. Thaeder stated that there are other details that would need to be worked out before commencement because again, will we have a manual or an automatic interconnection with Millsboro. Artesian will work with the Town of Dagsboro regarding the proper procedures to set everything up along with all the different notifications that take place with any interconnection. Mr. Thaeder stated that there would be more discussion about the actual operation as we move forward.

Mayor Baull asked Town Solicitor Morris if he recommended the Second Interconnection Agreement. Mr. Morris stated that he was hesitant to have an open ended mutual agreement. He felt that it should be pinned down just a little bit, whether it be when the Town of Millsboro's water tower is completed or not later than a certain date, but to have it as mutually agreed upon concerns him. Mr. Thaeder stated that if we added we agree to September 30th, or a date earlier, subject to the Town of Millsboro's construction schedule that they are good with that being added to the Agreement.

Vice-Mayor Chandler stated that he has reviewed the interconnection agreements and has a couple of questions that he felt Dagsboro and Artesian need to have a discussion about. Mr. Thaeder asked Vice-Mayor Chandler if he could elaborate his concerns. Vice-Mayor Chandler stated that he would rather discuss this offline, but an issue with the pricing mechanism in the contract as well as an issue in regard to the distribution system that is owned by the Town of Dagsboro, but is going to be used by Artesian to deliver water to other communities. He stated there is also a termination or a non-renewal provision in the Agreement that he thinks has a one year term on it and he wondered if it should be a one year term or a six month term. Vice-Mayor Chandler stated that there are little things that he felt could be easily resolved, but tonight is not the night to do it. Mr. Thaeder stated that he would work with Town Administrator Brought to setup a meeting prior to the next Town Council meeting.

VII. PUBLIC COMMENT

Alan McDuffie, 131 Deer Run, Dagsboro, stated that he doesn't understand what the big deal is about opening up a liquor store in town. He stated that they are essential, it would be convenient, and it will bring jobs. He stated that he is a business owner himself and doesn't want to stop others from trying to open up their own business.

Anthony Lorenz, 29198 Shady Creek Lane, Dagsboro, stated that this might be premature, but it was stated you were going to have a workshop and eventually decide to have hearings or a vote. He asked if it would be verified that the votes or comments are actually from Town Center residents or would others from outside the corporate limits think that it is a good idea and the Council would listen to their opinion.

Mayor Baull stated that if it did go to a vote it would just be to the residents that live within the corporate limits of Dagsboro.

Mr. Lorenz stated that he doesn't believe liquor stores are essential. He stated that they are a convenience not a necessity. He stated that he is not against new businesses, businesses are great but he felt a liquor store doesn't do much for a town. As for jobs, it would be minimum wage and would not bring a lot of jobs.

Mr. Lorenz stated that he wanted to thank the Council for fixing the clock. He and his wife enjoyed the music and he hoped it will continue through other holidays. He stated that it was just nice and added to the towns' essence.

Alan McDuffie responded to Mr. Lorenz's comments and stated that it is not just a liquor store from what he read online as it would be an upscale liquor store and he stated that he is not a thirty pack of Natural Light kind of guy. He would like to buy a nice bottle of scotch or bourbon and sit on his porch here in Dagsboro. He just doesn't understand the negativity of having a liquor store.

Cathy Flowers, 31860 New Street, Dagsboro asked if the public workshop was going to be virtual because she has a concern with people not wanting to participate virtually.

Mayor Baull stated that it had to be virtually to follow the state guidelines.

Dana Miller, 31806 Waples Street, Dagsboro, stated that she felt the survey was not a fair representation vote of the Town Center. She stated that she knows several businesses and residents that did not receive the survey in the mail. She felt that if you could verify that the survey was received then it could be considered a fair survey.

Al Townsend, 32928 Main Street, Dagsboro, stated that the fire hall did not receive the survey and it is in Town Center. He stated that he also talked to several people along Clayton Street that never received the survey. He is in agreement with Dana that it did not get out to everybody. In his opinion it should have went out to everyone within the town as it affects the residents of the whole town, not just the Town Center. He also stated that in regard to Artesian needing to get water to Frankford, the main on the back side of the High School does not go into Dagsboro. Artesian would just need to get permission from the school and the State to tie into that water main.

LaSonya Snead, after hearing that certain people did not receive the survey and it doesn't seem that it was a fair representation, asked what the plan is going forward.

Mayor Baull stated that they will decide if a Public Workshop or vote is how they want to handle it.

VIII. ADJOURNMENT

Councilwoman Ulrich made a motion to adjourn. Councilman Miller seconded the motion. All were in favor.

Meeting adjourned at 7:02 p.m.

Respectfully Submitted,

Stacy West, Town Clerk